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TPI applies wide interpretation of likelihood of confusion between device marks Examination/opposition National procedures

Turkey - Mehmet Gun and Partners

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In a recent decision involving Red Bull GmbH's bull device, the Turkish Patent Institute (TPI) has interpreted the likelihood of confusion between two device marks in a wide sense.

In March 2011 a trademark application was filed for a bull device in the name of an individual for "clothing, footwear and headgear" in Class 25 of the Nice Classification.

Red Bull filed an opposition against the application on the grounds that it was confusingly similar to:

- its RED BULL and 'double bull' device mark;
- its 'double bull' device; and
- its 'single bull' device.



Mark applied for

Red Bull's 'single bull' device

Red Bull argued that its trademarks were well known in Turkey.

The main argument set forth in the opposition was that Red Bull's 'bull device' mark is based on a unique concept and that this concept had been copied by the applicant. Moreover, Red Bull argued that:

- the parties' trademarks covered the same goods in Class 25; and
- Red Bull's bull device is reproduced in most of Red Bull's marks, thereby creating an association with the well-known RED BULL mark.

In view of the above, Red Bull contended that there was a likelihood of confusion between the marks.

The TPI upheld the opposition and rejected the application on the grounds that the trademark applied for was confusingly similar to Red Bull's 'bull device' mark. Therefore, there was a likelihood of confusion among the public.

In previous decisions, the TPI had adopted a narrower interpretation of the similarity between purely figurative trademarks, and used to require that the marks be almost indistinguishable. However, this decision can be regarded as a slight change of practice in this respect.

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